

**2018  
BYLAWS  
of  
WEST RIVER ELECTRIC ASSOCIATION, INC.  
AS AMENDED**

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## **ARTICLE I**

### **Definitions**

**SECTION 1. General Provisions.** Within these bylaws of West River Electric Association, Inc., as currently existing or as later amended (“bylaws”):

- a) Unless otherwise provided, words and phrases used in these bylaws have their customary and ordinary meaning;
- b) The singular use of any word includes the plural use, and the plural use of any word includes the singular use;
- c) The masculine use of any word includes the feminine and neutral uses, the feminine use of any word includes the masculine and neutral uses, and the neutral use of any word includes the masculine and feminine uses;
- d) The present tense of any word includes the past and future tenses, and the future tense of any word includes the present tense; and
- e) The words “shall” and “must” indicate a mandatory action or requirement, and the word “may” indicates a permissive action or requirement.

**SECTION 2. Defined Terms.** These bylaws define certain words and phrases within bylaw sections (“Defined Terms”). Unless the context requires otherwise, Defined Terms have the meaning specified in the appropriate bylaw section.

The following Defined Terms are defined in the following Bylaw sections:

- “Annual Meeting” - defined in Article IV, Section 1
- “Committee” - defined in Article VI, Section 6
- “Capital” - defined in Article VIII, Section 2 a
- “Close Relative” - defined in Article XI, Section 10
- “Conflict of Interest Transaction” - defined in Article VI, Section 8
- “Conversion” - defined in Article II, Section 5
- “Cooperative” - defined in Article II, Section 1
- “Director” - defined in Article V, Section 1
- “Director District” - defined in Article V, Section 1
- “Director Quorum” - defined in Article VI, Section 4
- “Director Removal Petition” - defined in Article V, Section 5
- “Director Term” - defined in Article V, Section 2
- “Director Written Consent” - defined in Article VI, Section 7
- “Governing Law” - defined in Article XI, Section 11
- “Joint Member” - defined in Article II, Section 4
- “Member” - defined in Article II, Section 2
- “Member Meetings” - defined in Article IV, Section 1 and 2
- “Nominating Petitions” - defined in Article V, Section 4 c
- “Non-Natural Person” – defined in Article IV, Section 5 b
- “Patron” - defined in Article VIII, Section 2 b
- “Property Rights” – defined in Article II, Section 1 f
- “Regular Board Meeting” - defined in Article VI, Section 1
- “Officers of Cooperative” - defined in Article VII, Section 4-7
- “Record of Membership” - defined in Article II, Section 3
- “Service” - defined in Article II, Section 1 a
- “Special Board Meeting” - defined in Article VI, Section 2

“Special Member Meeting” - defined in Article IV, Section 2

“Title and Headings” – defined in Article XI, Section 12

## **ARTICLE II Membership**

### **SECTION 1. Requirements for Membership.** Any

- a) person,
- b) partnership,
- c) estate,
- d) trust,
- e) association,
- f) corporation,
- g) limited liability company,
- h) organization or other business entity,
- i) Federal or State Agency or political subdivision thereof

may become a member of the West River Electric Association, Inc., (hereinafter called the "Cooperative") upon receipt of electric service from the Cooperative, such members shall:

- (1) Make an application for electric service; prior to being furnished with the same;
- (2) Purchase electric energy on terms and conditions set forth in these bylaws and as may be established by the Board will make a party a member of the Cooperative;
- (3) Comply with and be bound by the Articles of Incorporation, bylaws, policies, rules, regulations, general terms and conditions for electric service, and rate schedules as adopted or amended by the Board;
- (4) Submit a supplemental electric service contract, contribution in aid of construction, facilities extension fees, easements or electric service contracts in such form as may be required by the Cooperative;
- (5) Cause all premises covered by the membership to be wired according to applicable City, State and Federal specifications and the specifications of the Cooperative. Each member shall be responsible for, and shall indemnify the Cooperative, or any other person against injury, loss or damage resulting from the defective or improper use or maintenance of the members premises, wiring and any apparatus connected thereto.
- (6) Grant such property rights as required by the Cooperative for Cooperative purposes by
  - (a) providing the Cooperative safe and reliable access to or use of member property; and
  - (b) pursuant to terms and conditions specified by the Cooperative, grant or convey to the Cooperative an easement, right-of-way, license, or other right or interest in member property. A Cooperative purpose is installing, constructing, inspecting, measuring, providing, monitoring, operating, maintaining, removing, relocating, upgrading, or replacing Cooperative equipment or Cooperative service to one or more of its members or customers.

No membership certificate shall be issued, and subject to Article II, Section 2 of these bylaws, all memberships shall be automatically effective upon receipt of the electric service from the Cooperative as evidenced from the

books and records of the Cooperative. No member may hold more than one membership in the Cooperative, and no membership in the Cooperative shall be transferable, except as provided in these bylaws.

The responsibility of the Cooperative shall not extend beyond the point of delivery where its service wires are attached to the meter or meter loop provided for measuring electricity used on the members premises, except that the Cooperative shall own and retain control of any load management equipment installed beyond the metering point.

**SECTION 2. Acceptance into Membership.** A report of electric service applications shall be regularly submitted to the Board. Upon determination that all requirements set forth in Article II (2) Section One (1) of these bylaws are complied with,

- a) any applicant shall automatically become a member of the cooperative on the date of their connection for electric service; PROVIDED, that the Board may by resolution deny an application and refuse to extend service upon its determination that the applicant is not willing or is not able to satisfy and abide by the cooperative's terms and conditions of membership or that such application should be denied for other good cause;
- b) PROVIDED FURTHER, that any person whose application for sixty (60) days or longer, has been submitted to but not approved by the Board may, by filing written request therefore with the Cooperative at least thirty (30) days prior to the next meeting of the members, have his application submitted to and approved or disapproved by the vote of the members at such meeting, at which the applicant shall be entitled to be present and be heard.

**SECTION 3. Membership Record.** Membership in the Cooperative shall be listed in an official record as shall be determined by the Board of Directors, which record shall be available for inspection by any authorized person as established by Board policy.

**SECTION 4. Joint Membership.** A member may apply at any time for conversion to a joint membership (limited to two persons only) subject to compliance with the requirements set forth in Section 1 of this article. The term joint membership shall be deemed to be joint tenants with full rights of survivorship as authorized by the laws of this state, except as restricted herein as limited to two persons only. Any provisions relating to the rights and liabilities of membership shall apply equally with respect to the holders of a joint membership. For joint membership the following rules shall apply:

- a) The presence at a meeting of either joint member shall be regarded as the presence of one member, and of constituting a joint waiver of notice of the meeting;
- b) The vote of either joint member shall constitute one vote; no split vote shall be permitted;
- c) If there is any disagreement between joint members as to who is entitled to vote for the joint membership, if parties are not able to reach an agreement as to how to determine who should vote, the president of the board may choose any reasonable method of chance to determine who shall vote;
- d) A waiver of notice signed by either joint member shall constitute a joint waiver;
- e) Notice to either joint member shall constitute notice to both joint members;
- f) Expulsion of either joint member shall terminate the joint membership;

- g) Either joint member, but not both, may be elected or appointed as an officer or Director, subject to the qualifications for such office as stated in these bylaws; and
- h) The joint member continuing to receive electric service shall be considered as an individual member upon notification of death, divorce or legal separation, or legal conclusion of the relationship of those named in a joint membership.

**SECTION 5. Conversion of Membership.**

- a) A membership may be converted to a joint membership upon the written request of the holder thereof and the agreement by such holder and such holder's joint member to comply with the Articles of Incorporation, bylaws and rules and regulations adopted by the Board of Directors. The outstanding membership shall be terminated, and shall be reinstated by the Cooperative in such manner as shall indicate the changed membership status.
- b) Upon the death of either joint member who is a party to the joint membership, such membership shall be held solely by the survivor. The estate of the deceased shall not be released from any debts due the Cooperative.

**SECTION 6. Membership Classes.** The Board may by resolution establish membership classes based upon a member's use, receipt, or purchase of one (1) or more services from the Cooperative and the Cooperative may group members into such classes and may define rights and privileges of each class. In classifying members:

- a) No member shall be a member of more than one (1) member class.
- b) Based upon a member's use, receipt or purchase of one (1) or more services from the Cooperative, the Cooperative shall group the member in descending order of priority as a Class A member, Class B member, and so on.

**SECTION 7. Purchase of Electric Energy.** Each member shall purchase from the Cooperative electric energy and shall pay therefore at rates which shall from time to time be fixed by the Board of Directors. It is expressly understood that amounts paid for electric energy in excess of the cost of service are furnished by members as capital and each member shall be credited with the capital so furnished as provided in these bylaws.

- a) The Cooperative, however, does not insure, guarantee, or warrant that it will provide adequate, continuous, or non-fluctuating electric energy or other Cooperative service. The Cooperative is not liable for damages, costs, or expenses, including attorney fees or legal expenses, caused by the Cooperative providing inadequate, non-continuous, or fluctuating electric energy or other Cooperative service, unless the damages, costs, or expenses are caused by the Cooperative's gross negligence.
- b) Production or use of electric energy on the premises of the member, regardless of the source thereof, by means of facilities which may be interconnected with Cooperative facilities, on securing approval of the Cooperative in writing, shall be subject to appropriate regulations as shall be fixed from time to time by the Cooperative.
- c) Each member shall pay all amounts owed by the member to the Cooperative as and when the same shall become due and payable.

- d) Each member shall irrevocably waive any relevant statute of limitations as a defense to any claim made by the Cooperative, by way of set-off, for any amounts which become due, or which are claimed to have become due, to the Cooperative from the member during his or her membership. Such waiver shall not be affected by subsequent termination of membership.
- e) Each member shall make available to the Cooperative a suitable site, as determined by the Cooperative, whereon to place the Cooperative's physical facilities for the furnishing and metering of electric service and shall permit the Cooperative's authorized employees, agents and independent contractors to have access thereto for inspection, maintenance, replacement, relocation or repair thereof at all reasonable times.
- f) As part of the consideration for such service, each member shall be the Cooperative's bailee of such facilities and shall accordingly desist from interfering with, impairing the operation of, or causing damage to such facilities, and shall use the member's best efforts to prevent others from so doing. In the event such facilities are interfered with, impaired in their operation or damaged by the member, or by any other person when the member's reasonable care and surveillance could have prevented such, the member shall indemnify the Cooperative and any other person against death, injury, loss or damage resulting therefrom, including but not limited to the Cooperative's cost of repairing, replacing, or relocating any such facilities and its loss, if any, of revenues resulting from the failure or defective functioning of its metering equipment. In no event shall the responsibility of the Cooperative extend beyond the point at which its service wires are attached to the meter loop provided for measuring electricity used on such premises, or beyond the combination circuit breaker-meter base panel if such is owned and maintained by the Cooperative.
- g) The members of the Cooperative, by purchase of electric energy and other Cooperative services, acknowledge that the terms and provisions of the articles and bylaws, and Board policies constitute and are a contract between the Cooperative and each member and both the Cooperative and members are bound by such contract, and other governing documents, as fully as though each member had individually signed a separate instrument containing such terms and provisions by the purchase of electric energy and other Cooperative services.

**SECTION 8. Termination of Membership.** Any member may withdraw from membership upon compliance with such uniform terms and conditions as the Board of Directors may prescribe. Upon the happening of any of the following, the Cooperative, without providing the member notice or an opportunity to comment, may suspend the member and may suspend or terminate Cooperative services to the member upon:

- a) Determining that a member has tampered or interfered with, damaged, or impaired any product, equipment, structure, or facility furnished or used by the Cooperative to provide, monitor, measure, or maintain any Cooperative Service ("Cooperative Equipment");
- b) Discovering the unsafe condition, imminent hazard, or danger posed of any Cooperative or member equipment

The Board of Directors of the Cooperative may, by the affirmative vote of not less than two-thirds of all the Directors, expel any member who fails to comply with any of the provisions of the Articles of Incorporation, bylaws or rules or regulations adopted by the Board of Directors, but only if such member shall have been given written notice by the Cooperative that such failure makes such member liable to expulsion and such failure shall have continued for at least ten days after such notice was given. Any expelled member may be reinstated by a vote of the Board of Directors or by a vote of the members at any annual or special meeting. The membership shall terminate when the member no longer has an active service for purchasing electric energy or active line retention contract from the Association.

Upon the withdrawal, death, cessation of existence or expulsion of a member, the membership of such member shall thereupon terminate. Termination of membership in any manner shall not:

- (1) release a member or such member's estate from any debts due the Cooperative
- (2) release the Cooperative from the obligation to retire and pay Capital Credits to the former member

### **ARTICLE III Rights and Liabilities of Members**

**SECTION 1. Property Interest of Members.** Upon dissolution, after

- a) all debts and liabilities of the Cooperative shall have been paid, and
- b) all capital furnished through patronage shall have been retired as provided in these bylaws, the remaining property and assets of the Cooperative shall be distributed among the members pursuant to a Plan of Dissolution.

**SECTION 2. Non-Liability for Debts of the Cooperative.** The private property of the members shall be exempt from execution or other liability for the debts of the Cooperative and no member shall be liable or responsible for any debts or liabilities of the Cooperative.

### **ARTICLE IV Meetings of Members**

**SECTION 1. Annual Meeting.** The Annual Meeting of the Members shall be held at such date and time as the Board determines, at Wall, South Dakota, for the purpose of electing Directors, passing upon reports for the previous fiscal year and transacting such other business as may come before the meeting. It shall be the responsibility of the Board of Directors to make adequate plans and preparations for the Annual Meeting. Failure to hold the Annual Meeting at the designated time shall not work a forfeiture or dissolution of the Cooperative.

**SECTION 2. Special Meetings.** Special meetings of the members may be called by resolution of the Board of Directors, or upon a written request signed by any three Directors, by the President, or by ten (%) percent or more of all the members and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. Special meeting of members shall be held at Wall, South Dakota.

**SECTION 3. Notice of Members Meetings.** Notice, whether by written or electronic means, shall state the place, day and hour of the meeting and, in case of a special meeting or an annual meeting at which business requiring special notice is to be transacted, the purposes for which the meeting is called, shall be delivered not less than ten days nor more than twenty five days before the date of the meeting, either personally, by mail or by electronic means, or at the direction of the Secretary, or upon a default in duty by the Secretary, by the persons calling the meeting, to each member.

- a) If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at the member's address as it appears on the records of the Cooperative, with postage thereon

prepaid. If allowed by law and if electronically delivered, such notice shall be deemed to be delivered when sent to the last known electronic address of the member for which no non-delivery notice is returned. In case of non-delivery notice, the Cooperative will try to give notice by some other means than electronic. Any such notice may be included with the member's service billing or as an integral part of, or with, the Cooperative monthly newsletter or insert.

- b) The inadvertent or unintentional failure of any member to receive notice of any member meeting shall not invalidate any action which may be taken by the members at such meeting.

**SECTION 4. Quorum.** Fifty members, present in person, shall constitute a quorum at any meeting of the members. If less than a quorum is present at any meeting, a majority of those present in person may adjourn the meeting from time to time without further notice. The minutes of each meeting shall contain a list of the members present in person, or such list shall be filed at the principal office of the Cooperative.

**SECTION 5. Voting.**

- a) Each member shall be entitled to only one vote upon each matter submitted to a vote at a meeting of the members. The spouse of a member may cast a vote for the other party unless there is evidence that the member indicated otherwise.
- b) Each non-natural member shall certify on a form provided by the Cooperative that the person entitled to vote is an officer, shareholder, or member of the non-natural member. "Non-Natural person" shall be defined as an organization, estate, trust, association, partnership, corporation, limited liability company, Federal or State agency or political subdivision.
- c) All questions shall be decided by a vote of the majority of the members voting thereon in person, except as otherwise provided by law, the Articles of Incorporation, or these bylaws.
- d) Members may vote by mail on any issues authorized by law or by these bylaws except in the election of directors, or to sell, lease or dispose of a substantial portion of property. Voting by mail shall be under such terms and conditions as the Board has established acting under policies of general application.
- e) In the event of a tie vote between the candidates receiving the highest number of votes, none of the candidates shall be declared elected and a run-off election shall be held between the candidates who tied in receiving the highest number of votes. Said election may be held immediately at the call of the Board of Directors, or at a special meeting of the members called for that purpose within sixty (60) days following the annual meeting.

**SECTION 6. Order of Business.** The order of business at the annual meeting or special meeting of the members shall be established by the Board.

**SECTION 7. Credentials and Election Committee.**

- a) The Board of Directors shall, at least ten (10) days before any meeting of the members, appoint a Credentials and Election Committee consisting of an uneven number of members, not less than five (5) nor more than eleven (11) who are not, a "close relative" of any of the known candidates for Directors to be elected at such meeting.



- b) In appointing the committee, the Board shall have regard for equitable representation of the several areas served by the Cooperative.
- c) It shall be the responsibility of the committee to pass upon all questions that may arise with respect to the registration of members, to count all ballots cast in any election or in any other ballot vote taken, to rule upon the effect of any ballots irregularly or indecisively marked, and to pass upon any protest or objection filed with respect to any election or to conduct affecting the results of any election, or any member meeting issue.
- d) Only an active member may file a protest or objection.
- e) In exercise of its responsibility, the Committee shall have available to it the advice of counsel provided by the Cooperative.
- f) The committee's decision on all such matters shall be final.

**SECTION 8. Reports.** The officers of the Cooperative or their designated agents shall submit at each Annual Meeting of the members, reports covering the business of the Cooperative for the previous fiscal year. Such reports shall set forth the condition of the Cooperative at the close of such fiscal year.

## **ARTICLE V Directors**

**SECTION 1. General Powers.** The business and affairs of the Cooperative shall be managed by a Board of nine (9) Directors, which shall be composed of three members elected from and residing in the following geographical districts served by the Cooperative:

**District One** shall consist of the area served by the Cooperative in Pennington County, South Dakota, west of the Cheyenne River;

**District Two** shall consist of the area served by the Cooperative in Meade and Ziebach Counties;

**District Three** shall consist of all the areas served by the Cooperative east of the Cheyenne River.

The Directors shall exercise all of the powers of the Cooperative except such as are, by law, the Articles of Incorporation or these bylaws, conferred upon or reserved to the members.

**SECTION 2. Election and Tenure of Office.** At the Annual Meeting each year, one Director shall be elected from each district for a term of three years or until a successor has been elected or appointed and shall have qualified. If an election of Directors shall not be held on the day designated herein for the Annual Meeting, or at any adjournment thereof, a special meeting of the members shall be held for the purpose of electing Directors within a reasonable time thereafter.

**SECTION 3. Qualifications.** No person shall be eligible to become or remain a Director in the Cooperative who:

- a) is a close relative of an incumbent Director, officer or employee of the Cooperative or spouse of said Director, officer or employee as defined in Article XI Section 10;

- b) is not a member in good standing of the Cooperative and a bona fide resident in the area served by the Cooperative and receiving service therefrom at said member's primary residence; PROVIDED, that the designee of any member which is a non-natural person, such as a corporation, trust, church, association, partnership, limited liability company, or other business entity, shall be eligible to become a Director of the Cooperative as long as said designee resides in the same district that the member referred to above is located in and the designee must also be a member of the Cooperative.
- c) does not have the legal capacity to enter into a binding contract;
- d) while a director attended less than two-thirds ( $2/3^{\text{rd}}$ ) of monthly Board meetings during the past calendar year unless excused for good cause by the Board. Attendance will be defined by Board policy.
- e) has been convicted of a felony within the last 10 years.
- f) if they or their spouse is in any way employed by or has a substantial interest in a competing enterprise, an electric utility, a business selling electric energy or supplies to the Cooperative, or a business primarily engaged in selling electrical or plumbing fixtures, appliances, or supplies to, among others, Cooperative members and less than 3 years have passed from the date of employees last day of employment.
- g) is, or was, an employee, or a spouse of an employee, of West River Electric Association, Inc. and less than three (3) years have passed from the date of the employee's last day of employment.
- h) no director, or their spouse, may become an employee of the Cooperative unless three (3) years have passed from the Director's last day on the Board.

Upon establishment of the fact that a nominee for Director lacks eligibility under this Section or as may be provided elsewhere in these bylaws, it shall be the duty of the Chairman, presiding at the meeting at which such nominee would otherwise be voted upon, to disqualify such nominee. Upon establishment of the fact that any person being considered for, or already holding, a directorship or other position of trust in the Cooperative lacks eligibility under this Section, it shall be the duty of the Board of Directors to withhold such position from such person, or to cause such person to be removed therefrom, as the case may be.

Nothing contained in this section shall affect or be construed to affect in any manner whatsoever the validity of any action taken at any meeting of the Board of Directors, unless such action is taken with respect to a matter directly affected by the provisions of this Section and in which one or more of the Directors have an interest adverse to that of the Cooperative.

#### **SECTION 4. Nominations.**

- a) Not less than 120 days, nor more than 180 days, before the date of the membership meeting at which Directors are to be elected, current Board of Directors may declare their intent to seek re-election to another term on the Board of Directors.
- b) At least 120 days before the membership meeting, the Secretary of the Board of Directors shall prepare and post at all of the Cooperative's offices a list of incumbent Directors seeking re-election for the Board of Directors.
- c) not less than 60 days prior to the meeting, a member may file a nominating petition with the Cooperative that is signed by 15 or more members for which an incumbent Director's term is expiring, and the Secretary

shall post such nominations at the same place where the Secretary's list of nominations is posted for incumbent Directors seeking re-election.

- d) At least 10 days before the date of the meeting, the Secretary shall mail, with the notice of the meeting or separately, a statement of the number of Directors to be elected, the terms for which they are to be elected, the districts from which they will be elected, and the names and addresses of the candidates, specifying separately the nominations from the incumbent Director seeking re-election and the nominations made by petition, if any.
- e) No nominations will be allowed at the time of the membership meeting.

**SECTION 5. Removal of Board Members by Members.**

- a) Any member may bring one or more charges for cause against any one or more Directors and request the removal of such Director(s) by reason thereof by filing such charge(s) in writing with the Secretary, together with a petition signed by not less than 10% of the Cooperative's total membership. Said petition shall call for and specify:
  - (1) the place, time and date of a special membership meeting,
  - (2) the stated purpose of which is to hear and act on such charges, to be held not less than 40 days after filing of such petition, or request that the matter be acted upon at the subsequent annual membership meeting if the same will be held no sooner than 40 days after the filing of such petition. The petition, in the forefront of each page,
    - (a) shall state the name and address of each member filing such charge(s),
    - (b) a verbatim statement of each charge, and the name of each Director against whom any charges are being made.
    - (c) The petition shall be signed by each member with the same name and address as appears on billings by the Cooperative.
- b) Not less than 10 days prior to the meeting at which the matter will be acted upon, notice of the meeting shall be given to all members, stating the purpose of the meeting and containing the charge(s) verbatim, the Director(s) against whom the charge(s) have been made, and the member(s) filing the charge(s);
- c) Such Director(s) shall be informed in writing after the charges have been validly filed and at least 20 days prior to the meeting at which the charge(s) are to be considered. Such Director(s) shall have an opportunity at the meeting to be heard in person, by witnesses, by and with assistance of counsel, or any combination of such, and to present evidence regarding the charge(s); and the person(s) bringing the charge(s) shall have the same opportunity, but must be heard first.
- d) The question of the removal of such Director(s) shall, separately for each if more than one has been charged, be considered and voted upon at such meeting;
  - (1) PROVIDED that the question of removal of a Director shall not be voted upon at all unless some evidence in support of the charge(s) against the Director shall have been presented during the meeting through oral statements, documents, or otherwise;

(2) AND PROVIDED FURTHER that any charge that a Director has in a lawful manner opposed or resisted any effort to sell, lease/sell, transfer, exchange, convey, or otherwise dispose of all or a substantial portion of the Cooperatives properties and assets or to dissolve the Cooperative shall not constitute a "charge for cause" on the basis of which a Director may be removed from office.

**SECTION 6. Removal of Board Members by Board.**

- a) Any board member may bring one or more charges for serious cause against any one or more directors and request the removal of such director(s) by reason thereof by filing such charge(s) in writing with the Secretary, together with a petition signed by at least a majority of the cooperative's remaining board members.
- b) Said petition shall call for and specify the place, time and date of special board meeting, the stated purpose of which is to hear and act on such charge(s), to be held not less than forty (40) days after filing of such petition. The petition shall state the name and address of each board member filing such charge(s), a verbatim statement of each charge and the name of each director against whom any charges are being made. The petition shall be signed by a majority of the board members with their legal name and current address clearly indicated.
- c) Not less than ten (10) days prior to the meeting at which the matter will be acted upon, notice of the meeting shall be given to all board members, stating the purpose of the meeting and containing the charge(s) verbatim, the director(s) against whom the charge(s) have been made, and the board member filing the charge(s); provided that the notice shall set forth at least a majority of the members of the board who in turn have filed a petition as set forth above.
- d) Such director(s) shall be informed in writing after the charges have been validly filed and at least twenty (20) days prior to the meeting at which charge(s) are to be considered. Such director(s) shall have an opportunity at the meeting to be heard in person, by witnesses, by and with the assistance of counsel, or any combination of such, and to present evidence regarding the charge(s); and the board member(s) bringing the charge(s) shall have the same opportunity, but must be heard first.
- e) The question of the removal of such director(s) shall, separately for each of more than one charge, be considered and voted upon at such meeting;
  - (1) PROVIDED that the question of removal of a director shall not be voted upon at all unless some evidence is in support of the charge(s) against the director shall have been presented during the meeting through oral statements, documents, or otherwise;
  - (2) AND PROVIDED FURTHER that any charge that a director has in a lawful manner opposed or resisted any effort to sell, lease/sell, transfer, exchange, convey, or otherwise dispose of all or a substantial portion of the cooperatives properties and assets or to dissolve the cooperative, shall not constitute a "charge of cause" or a "charge for serious cause" on the basis of which a director may be removed from office.

**SECTION 7. Vacancies.** A vacancy occurring on the Board of Directors shall be filled by the affirmative vote of a majority of the remaining Directors for the unexpired portion of the term. The person selected must reside in the district from which the vacancy is created.

## **SECTION 8. Compensation and Expense of Directors.**

- a) **Compensation.** Directors shall establish compensation and other benefits for their services as Directors.
- b) **Expense.** Directors shall establish policies to authorize the payment of or reimbursement of expenses for Directors while conducting the business of the Cooperative.
- c) **Relatives.** No close relative of a Director shall receive compensation for serving the Cooperative unless payment and amount of compensation shall be specifically authorized by a vote of the members or the service by such close relative shall have been certified by the Board of Directors as an emergency measure or done in a normal business transaction.

## **ARTICLE VI Meetings of Directors**

**SECTION 1. Regular Meetings.** A regular meeting of the Board of Directors may be held without notice, immediately after, and at the same place as, the Annual Meeting of the members. A regular meeting of the Board of Directors shall also be held monthly at such time and place in Pennington County, South Dakota or any area served by West River Electric Association, Inc.. Such regular monthly meeting may be held without notice other than such resolution fixing the time and place thereof.

**SECTION 2. Special Meetings.** Special meetings of the Board of Directors may be called by the President or by any three Directors, and it shall be the duty of the Secretary to cause notice of such meeting to be given as hereinafter provided. The President, or the Directors calling the meeting, shall fix the time and place for the meeting or the meeting may be held electronically at the option of the President or the Directors calling the meeting. Any meetings may, with the oral consent (said consent to be shown in the written minutes of such meeting) of the majority of the directors, be convened and conducted by telecommunication, or other electronic media, without regard to the actual physical location of any of the individual directors.

**SECTION 3. Notice of the Directors Meetings.** Notice of the time, place, (or telephone or other electronic media conference) and purpose of any meeting of the Board shall be delivered to each director either personally or by regular or electronic mail, by or at the direction of the Secretary, by the President or the directors calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the director at their address as it appears on the records of the Cooperative, with postage thereupon prepaid, at least five (5) days before the date set for the meeting. If notice is transmitted by telephonic or other electronic media, it shall be deemed to be delivered upon completion of the telephonic or the electronic media transmission address to the director at his telecommunications or other electronic media address as it appears on the records of the Cooperative at least forty-eight (48) hours before the time and date set for the meeting.

**SECTION 4. Quorum.** A majority of the Board of Directors shall constitute a quorum, provided that if less than such majority of the Directors is present at said meeting, a majority of the Directors present may adjourn the meeting from time to time, and provided further, that the Secretary shall notify any absent Directors of the time and place of such adjourned meeting. The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. In a conflict of interest transaction, an interested director is not counted in determining a director quorum.

**SECTION 5. Waiver of Board Meeting Notice.** At any time, a director may waive notice of any Board Meeting by delivering to the Cooperative a written waiver of notice signed by the director and later filed with

the Board Meeting minutes or the Cooperative's records. Unless a director upon arriving at a Board Meeting, or prior to the vote on a particular matter, objects to lack of, or defective, notice of the Board Meeting or a matter being considered at the Board Meeting; and does not vote for, or assent to, an objected matter; then the director's attendance at, or participation in, a Board Meeting waives notice of the Board Meeting and any matter considered at the Board Meeting.

**SECTION 6. Committees.** The Board may create committees of the Board ("Board Committees") and appoint Directors to serve on the Board Committees. Each Board Committee must consist of two (2) or more Directors, and serve at the Board's discretion. The Board may create committees of the members ("Member Committees") and appoint members, including Directors, to serve on the Member Committees.

**a) Creation and Appointment of Committees.**

Except as otherwise provided in these bylaws, at least a majority of Directors currently in office must approve the:

- (1) Creation of any Board Committee or Member Committee;
- (2) Appointment of Directors to any Board Committee; and
- (3) Appointment of members to any Member Committee.

**b) Conduct of Committee Meetings.**

The bylaws addressing Regular Board Meetings, Special Board Meetings, Conduct of Board Meetings, Waiver of Board Meeting Notice, Board Action by Written Consent, and Director Quorum and Voting apply to Board Committees and Directors serving on Board Committees, and to Member Committees and members serving on Member Committees.

**c) Committee Authority.**

Except as prohibited or limited by law, the articles, or this bylaw, the Board may authorize a Board Committee to exercise Board authority. Although a Board Committee may recommend, a Board Committee may not act, to:

- (1) Retire and refund Capital Credits and Affiliated Capital Credits;
- (2) Approve the Cooperative's dissolution or merger, or the sale, pledge, or transfer of all, or substantially all Cooperative Assets;
- (3) Elect, appoint, or remove Directors, or fill any Board or Board Committee vacancy; or
- (4) Adopt, amend, or repeal these bylaws. Member Committees may act as specified by the Board, but may not exercise Board authority.

**SECTION 7. Board Action by Written Consent.** Without a Board Meeting, the Board may take any action required, or permitted, to be taken at a Board Meeting if the action is taken by all directors, and evidenced by one (1), or more, written consents, describing the action taken, signed by each director, and included with the Cooperative's Board Meeting minutes.

Unless the Director Written Consent specifies a different effective date, action taken by Director Written Consent is effective when the last director signs the Director Written Consent. A Director Written Consent has the effect of, and may be described as, a Board Meeting vote.

**SECTION 8. Conflict of Interest Transaction.** A conflict of interest transaction is a transaction with the Cooperative in which a director has a direct or indirect interest.

- a) A director has a direct conflict if the best interests of the Cooperative are opposite of the interests of the director. A director has an indirect interest in a Conflict of Interest Transaction if at least one (1) party to the transaction is another entity in which the director has a material interest or is a general partner; or of which the director is a director, officer, or trustee.
- b) **Approval of Conflict of Interest Transaction:** Regardless of the presence or vote of a director interested in a Conflict of Interest Transaction, a Conflict of Interest Transaction may be approved, and any Board quorum or member quorum satisfied, if the Conflict of Interest Transaction's material facts, and the director's interest, are disclosed or known to the Board or Board Committee, and a majority of more than one (1) director or Board Committee member with no interest in the Conflict of Interest Transaction votes to approve the Conflict of Interest transaction; or disclosed or known to the members, and a majority of votes cast by members not voting under the control of a director or entity interested in the Conflict of Interest Transaction approves the Conflict of Interest Transaction.
- c) **Fair Conflict of Interest Transaction:** A Conflict of Interest Transaction that is fair when entered is neither voidable, nor the basis for imposing liability on a director interested in the Conflict of Interest Transaction.

## **ARTICLE VII**

### **Officers**

**SECTION 1. Number.** The officers of the Cooperative shall be a President, Vice President, Secretary, Treasurer, and such other officers as may be determined by the Board of Directors from time to time. The offices of Secretary and of Treasurer may be held by the same person.

**SECTION 2. Election and Term of Officers.** The officers shall be elected by secret written ballot, annually by and from the Board of Directors at the meeting of the Board of Directors held immediately after the Annual Meeting of the members. The election of officers may take place at the next regular meeting of the Board of Directors following the annual meeting. Each officer shall hold office until the first meeting of the Board of Directors following the next succeeding Annual Meeting of the members, or until such officer's successor shall have been elected and shall have qualified. A vacancy in any office shall be filled by the Board of Directors for the unexpired portion of the term.

**SECTION 3. Removal of Officers and Agents by Directors.** Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Cooperative will be served thereby.

**SECTION 4. President.** The President shall:

- a) be the principal executive officer of the Cooperative and, unless otherwise determined by the members of the Board of Directors, shall preside at all meetings of the members and the Board of Directors.
- b) sign, with the Secretary, any deeds, mortgages, deeds of trust, notes, bonds, contracts, or other instruments authorized by the Board of Directors to be executed, except in cases of which the signing and execution thereof shall be expressly delegated by the Board of Directors or by these bylaws to some other officer or agent of the Cooperative, or shall be required by law to be otherwise signed or executed; and

c) in general perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

**SECTION 5. Vice President.** In the absence of the President, or in the event of the President's inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions on the President. The Vice President shall also perform such other duties as from time to time may be assigned to the Vice President by the Board of Directors.

**SECTION 6. Secretary.** The Secretary shall in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by the Board of Directors.

**SECTION 7. Treasurer.** The Treasurer shall in general perform all the duties incident to the office of treasurer and such other duties as from time to time may be assigned to the Treasurer by the Board of Directors.

**SECTION 8. Chief Executive Officer/General Manager.** The Board of Directors may appoint a CEO/General Manager who may be, but who shall not be required to be, a member of the Cooperative. The CEO/General Manager shall perform such duties and shall exercise such authority as the Board of Directors may from time to time vest in the CEO/General Manager.

**SECTION 9. Bonds of Officers.** The treasurer and any other officer or agent of the Cooperative charged with responsibility for the custody of any of its funds shall give bond in such sum and with such surety as the Board of Directors shall determine. The Board of Directors in its discretion may also require any other officer, agent, or employee of the Cooperative to give bond in such amount and with such surety as it shall determine. The cost of such bonds shall be paid by the Cooperative.

**SECTION 10. Compensation.** The powers, duties and compensation of officers and agents, shall be fixed by the Board of Directors.

## **ARTICLE VIII Non-Profit Operation**

**SECTION 1. Interest or Dividends on Capital Prohibited.** The Cooperative shall at all times be operated on a cooperative, non-profit basis for the mutual benefit of its patrons. No interest or dividends shall be paid or payable by the Cooperative on any capital furnished by its patrons.

**SECTION 2. Patronage Capital in Connection with Furnishing Electric Distribution and/or Electric Supply Service.**

- a) In the furnishing of electric energy the Cooperatives operations shall be so conducted that all patrons, will through their patronage, furnish capital for the Cooperative.
- b) In order to induce patronage and to assure that the Cooperative will operate on a non-profit basis, the Cooperative is obligated to account to all its patrons, members and non-members alike, for all amounts received and receivable from the furnishing of electric energy in excess of operating costs and expenses properly chargeable against the furnishing of electric energy. All such amounts, excluding non-operating margins in excess of operating costs and expenses, at the moment of receipt by the Cooperative are received with the understanding that they are furnished by patrons as capital. The Cooperative is obligated to account



on a patronage basis and pay by credits to a capital account for each patron all such amounts excluding non-operating margins in excess of operating costs and expenses.

- c) The books and records of the Cooperative shall be set up and kept in such a manner that at the end of each fiscal year the amount of capital, if any, so furnished by each patron is clearly reflected and credited in an appropriate record to the capital account of each patron, and the Cooperative shall within a reasonable time after the close of the fiscal year notify each patron of the amount of capital so accredited to their account. All such amounts credited to the capital account of any person shall have the same status as though they had been paid to the patron in cash in pursuance of a legal obligation to do so, and the patron had then furnished the Cooperative corresponding amounts for capital. By action of the Board of Directors, non-operating margins may be allocated as capital credits to patrons in the same manner as the Cooperative allocates other margins or may be retained or used by the Cooperative as permanent, non-allocated capital.
- d) Notwithstanding anything contained herein to the contrary, the Board may divide the business of the Cooperative into one (1) or more various and different departments or pools using rules of reasonable application so that amounts received and receivable from the operation of the Cooperative's business will be considered proceeds to one (1) or more various departments or pools and each of such departments or pools shall have operating costs and other expenses or deductions properly chargeable to the total proceeds of said department or pool.
- e) All other amounts received by the Cooperative from its operations in excess of costs and expenses shall, insofar as permitted by law, be:
  - (1) used to offset any losses incurred during the current or any prior fiscal year and,
  - (2) to the extent not needed for that purpose, allocated to its members on a patronage basis and any amount so allocated shall be included as a part of the capital credited to the accounts of members, as herein provided.
- f) In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding capital credits shall be retired without priority on a *pro rata* basis before any payments are made on account of property rights of members. If, at any time prior to dissolution or liquidation, the Board of Directors shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital then credited to patron accounts may be retired in full or in part.
- g) The Board of Directors shall determine the method, basis, priority, and order of retirement, if any, for all amounts furnished as capital. Provided further, however, that the Board of Directors shall have the power to adopt rules providing for the separate retirement of that portion ("power supply portion") of capital credited to the accounts of patrons which corresponds to capital credited to the account of the Cooperative by an organization furnishing electric service to the Cooperative. Such rules shall:
  - (1) establish a method for determining the power supply portion of capital credited to each patron for each applicable fiscal year,
  - (2) provides for separate identification on the Cooperative's books of the power supply portion of capital credited to the Cooperative's patrons,
  - (3) provide for appropriate notifications to patrons with respect to the power supply portion of capital credited to their accounts and

- (4) preclude a general retirement of the power supply portion of capital credited to patrons for any fiscal year prior to the general retirement of other capital credited to patrons for the same year or of any capital credited to persons for any prior fiscal year.
- h) Capital credited to the account of each patron shall be assignable only on the books of the Cooperative pursuant to written instruction from the assignor and only to successors in interest or successors in occupancy in all or a part of such patron's premises served by the Cooperative unless the Board of Directors acting under policies of general application, shall determine otherwise.
- i) Notwithstanding any other provision of these bylaws, the Board of Directors, at its discretion, shall have the power at any time:
- (1) Upon the death of any patron, who is a natural person, if the legal representatives of such patron's estate shall request in writing that the capital credited to any such patron be retired prior to the time such capital would otherwise be retired under the provisions of these bylaws, to retire capital credited to any such patron immediately upon such terms and conditions as the Board of Directors, acting under policies of general application, and legal representatives of such patron's estate shall agree upon; provided, however, that the financial condition of the Cooperative will not be impaired thereby;
  - (2) To retire the capital credited to all patrons that reach a certain age. If any patron has reached the age as determined by the Board of Directors to be eligible to have their capital retired under these bylaws and said patron shall request in writing that the capital credited to such patron be retired prior to the time such capital would otherwise be retired under the provisions of these bylaws, to retire the capital credited to any such patron immediately upon such terms and conditions as the Board of Directors, acting under policies of general application, and the patron or the legal representative of such patron shall agree upon; provided, however, that the financial condition of the cooperative will not be impaired thereby;
  - (3) Upon the death of one of the members of a joint account if the survivor of the joint account shall request in writing that the capital credited to such joint account be retired prior to the time such capital would otherwise be retired under the provisions of these bylaws, to retire the capital credited to any such survivor of the joint account immediately upon such terms and conditions as the Board of Directors, acting under policies of general application, and the survivor or the legal representatives of such survivor of the joint account shall agree upon; provided, however, that the financial condition of the cooperative will not be impaired thereby;
  - (4) Notwithstanding any other provision of these bylaws, the Board may at its discretion have the power at any time upon the cessation of legal existence of any non-natural person being a member, if the legal representative shall request in writing that the capital credited to any member be retired prior to the time such capital would otherwise be retired under the provisions of these bylaws, to retire capital credited under such terms and conditions as the Board, acting under policies of general application, and the legal representatives of such member shall agree upon; provided that the financial condition of the Cooperative will not be impaired thereby.
- j.) The patrons of the Cooperative, by dealing with the Cooperative, acknowledge that the terms and provisions of the Articles of Incorporation and bylaws shall constitute and be a contract between the Cooperative and each patron, and both the Cooperative and the patrons are bound by such contract, as fully as though each patron had individually signed a separate instrument containing such terms and provisions.

- k) The capital credit account allocation of any patron shall be available for offset prior to the time such capital would otherwise be retired under the provisions of these bylaws, by the Cooperative under such terms and conditions as the Board, acting under policies of general application, determines at any time for the unpaid debts, liabilities or other obligations of a member, together with interest thereon at the rate as may be established by the Board.

**SECTION 3. Reasonable Reserves.** The Directors may, before allocating and crediting margins to its patrons by resolution, provided for the adoption of margin stabilization plans, revenue or expense deferral plans or other plans that provide for the retention of revenues and receipts in excess of those needed to meet current losses and expenses. Reasonable Reserves may be created by the Cooperative for payment of the incremental cost of electric power and energy purchased by the Cooperative for resale to its members.

## **ARTICLE IX Disposition of Property**

- a) The Cooperative may not sell, lease or otherwise dispose of all or any substantial portion of its property unless such sale, lease or other disposition is authorized at a meeting of the members thereof by the affirmative vote of not less than two thirds of all the members of the Cooperative, and unless the notice of such proposed sale, lease or other disposition shall have been contained in the notice of the meeting; provided,
- b) However, that notwithstanding anything herein contained, the Board of Directors of the Cooperative, without authorization by the members thereof, shall have full power and authority to authorize the execution and delivery of a mortgage or mortgages or a deed or deeds of trust upon, or the pledging or encumbering of any or all of the property, assets, rights, privileges, licenses, franchises and permits of the Cooperative, whether acquired or to be acquired and wherever situated, as well as the revenues and income therefrom, all upon such terms and conditions as the Board of Directors shall determine, to secure any indebtedness of the Cooperative;
- c) PROVIDED FURTHER that the Board of Directors may, upon the authorization of a majority of all members of the Cooperative at a meeting of the members thereof called for that purpose, sell, lease or otherwise dispose of all or a substantial portion of its property to another Cooperative or to the holder or holders of any notes, bonds, or other evidence of indebtedness issued to the United States of America or any agency or instrumentality thereof or any other lender.

## **ARTICLE X Financial Transactions**

**SECTION 1. Contracts.** Except as otherwise provided in these bylaws, the Board of Directors may authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name and on behalf of the Cooperative, and such authority may be general or confined to specific instances.

**SECTION 2. Checks, drafts, and similar instruments.** All checks, drafts , notes, bonds or other evidences of indebtedness issued in the name of the Cooperative shall be signed by such officer or officers, agent or agents, employee or employees of the Cooperative and in such manner as shall from time to time be determined by resolution of the Board of Directors.

**SECTION 3. Deposits.** All funds of the Cooperative shall be deposited from time to time to the credit of the Cooperative in such banks, government agencies, or other financial institutions as the Board of Directors may select.

**SECTION 4. Fiscal Year.** The fiscal year of the Cooperative shall begin on the first day of January of each year and shall end on the thirty-first day of December of the same year.

## **ARTICLE XI Miscellaneous**

**SECTION 1. Seal.** The corporate seal of the Cooperative shall be in the form prescribed by the Board.

**SECTION 2. Membership in Other Organizations.** The Cooperative may become a member of or purchase stock in any other organization upon authorization of the Board of Directors to accomplish the purposes for which the Cooperative is organized.

**SECTION 3. Waiver of Notice.** Any member or Director may waive in writing any notice of a meeting required to be given by these bylaws either before or after such meeting. The attendance of a member or Director at any meeting shall constitute a waiver of notice of such meeting by such member or Director, except in case a member or Director shall attend a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting has not been lawfully called or convened.

**SECTION 4. Rules and Regulations.** The Board of Directors shall have power to make and adopt such rules and regulations not inconsistent with law, the Articles of Incorporation or these bylaws, as it may deem advisable for the management of the business and affairs of the Cooperative.

**SECTION 5. Accounting System and Reports.** The Board of Directors shall cause to be established and maintained a complete accounting system which, among other things, and subject to applicable laws and rules and regulations of any regulatory body, shall conform to generally accepted accounting standards.

The Board of Directors shall also after the close of each fiscal year cause to be made a full and complete audit by a certified public accountant of the accounts, books and financial condition of the Cooperative as of the end of such fiscal year.

**SECTION 6. Official Publication.** For the purposes of advising the members concerning the general activities and business of the Cooperative and disseminating such other information as the management may deem advisable, there shall be established an official publication of the Cooperative. The official publication shall be distributed to each member once a month, or at such other intervals as may be determined by the Board of Directors from time to time at an annual subscription rate as determined by the Board of Directors from time to time, and the annual subscription price shall be paid each year by each member from the amount accruing to such member as capital credit on the records of the Cooperative. The subscription renewal date shall be January 1 of each year and a full year subscription rate shall be charged for any member who receives one or more issues during that year.

**SECTION 7. Area Coverage.** The Board of Directors shall make diligent effort to see that electric service is extended to all unserved persons within the Cooperative service area who

a) desire such service and,

b) meet all reasonable requirements established by the Cooperative as a condition of such service.

**SECTION 8. Unclaimed Property.** All unclaimed property held by the Cooperative in any form, including unclaimed cash retirement of capital credits or other payment from the Cooperative, shall become the property of the Cooperative. If any member or former member fails to claim or cash any cash retirement of capital credits or their payment from the Cooperative within the requirements of law, after payment of the same has been made available to them by check mailed to them at their last address furnished by them to the Cooperative, such failure shall be and constitutes an irrevocable assignment by such member of such capital credit or other payments to the Cooperative, as authorized by law.

**SECTION 9. Rules of Order.** Unless the Board determines otherwise, and to the extent consistent with law, the articles, and these bylaws, all member meetings, Board meetings and committee meetings are governed by the fundamental fairness rule with *Robert's Rules of Order* as a guide only, not the ultimate authority, of such rule.

**SECTION 10. Close Relative.** As used in these bylaws, the term "close relative" means an individual who is whether naturally born or through adoption, by law or marriage, or principally resides in the same residence, he/she or their spouse is a grandparent, parent, uncle, aunt, brother, sister, niece, nephew, child, grandchild of an incumbent Director, officer or employee of the Cooperative.

**SECTION 11. Governing Law.** These bylaws must be governed by, and interpreted under, the Laws of the State of South Dakota.

**SECTION 12. Titles and Headings.** All titles and headings of bylaw articles, sections, and sub-sections are for convenience and reference only, and do not affect the interpretation of any bylaw article, section, or subsection.

**SECTION 13. Services Provided.** The Cooperative may provide any service or engage in any business activity which is lawful under the laws of the State of South Dakota.

**SECTION 14. Indemnification of Directors, Officers, Manager, Employees and Agents.** Subject to law each director, officer, manager, employee or agent of the Cooperative, shall be indemnified by the Cooperative against any and all claims and liabilities including reasonable settlements to which he or she has or shall become subject to by reason of serving or having served in such capacity, or by reason of any action alleged to have been taken, omitted, or neglected by him or her as such director, officer, manager, employee or agent; and the Cooperative shall reimburse each such person for all legal expenses reasonably incurred by such person in connection with any such claim or liability, provided, however, that no such person shall be indemnified or be reimbursed for any expense incurred in connection with, any claim or liability arising out of that persons own willful misconduct or gross negligence.

- a) Any questions as to the above rights and responsibilities shall be finally resolved by directors not a party to the claim or by an opinion by independent counsel.
- b) The Cooperative shall have power to purchase and maintain insurance covering such liability and expense, whether or not it could have power to indemnify such director, officer, or manager, under law, contract or by this bylaw. This coverage may be paid by the Cooperative.
- c) It is intended reasonable advances may be made on such indemnity, and that the burden of proof of lack of entitlement be on any objector. If any part of these provisions shall be held ineffective, this shall not affect

the balance, and in no case shall indemnification be less than provided or permitted to the full extent of the law.

- d) The foregoing rights of indemnification shall, in the case of the death of a director, officer, agent, employee or manager, inure to the benefit of his or her estate.
- e) The intent of this bylaw provision is to authorize the Cooperative pursuant to the above section of the bylaw to indemnify directors, managers, employees and agents in each and every instance allowed by law.

**SECTION 15. Partial Invalidity.** When reasonably possible, every bylaw article, section, sub-section, paragraph, sentence, clause, or provision (collectively, “Bylaw Provision”) must be interpreted in a manner by which the Bylaw Provision is valid. The invalidation of any Bylaw Provision by any entity possessing proper jurisdiction and authority, which does not alter the fundamental rights, duties, and relationship between the Cooperative and members, does not invalidate the remaining Bylaw Provisions.

**SECTION 16. Cumulative Remedies.** The rights and remedies provided in these bylaws are cumulative. The Cooperative or any member asserting any right or remedy provided in these bylaws does not preclude the Cooperative or member from asserting other rights or remedies provided in these bylaws.

**SECTION 17. Successors and Assigns.** To the extent allowed by law the duties, obligations, and liabilities imposed upon the Cooperative or any member by these bylaws are binding upon the successors and assigns of the Cooperative or member; and the rights granted to the Cooperative by these bylaws inure to the benefit of the Cooperative’s successors and assigns. The binding nature of the duties, obligations, and liabilities imposed by these bylaws upon the successors and assigns of the Cooperative and any member does not relieve the Cooperative or member of the duties, obligations, and liabilities imposed by these bylaws upon the Cooperative or member.

**SECTION 18. Waiver.** The failure of the Cooperative or any member to assert any right or remedy provided in these bylaws does not waive the right or remedy provided in these bylaws.

**SECTION 19. Lack of Notice.** To the extent allowed by law and the articles, the failure of any member or director to receive notice of any meeting, action, or vote does not affect, or invalidate, any action or vote taken by the members or Board.

**SECTION 20. Electronic Notice, Documents, and Actions.** With the consent of a member, notice, dissemination of documents and actions may be completed by electronic means as determined by the Board and as allowed by law. An electronic document electronically sent or transmitted to a member or former member at the member or former member’s last known electronic address is considered sent, received, transmitted, and effective on the date sent by the Cooperative. An electronic document electronically received or transmitted from a member or former member is considered sent, received, transmitted, and effective on the date received by the Cooperative. If electronically delivered, such notice shall be deemed to be delivered when sent to the last known electronic address of the member for which no nondelivery notice is returned. If addressed to an address shown in the membership list, then a written or electronic notice, communication, or report delivered or transmitted as part of a newsletter, magazine, or other publication regularly sent to members constitutes a notice, communication, or report to all members:

- a) residing at the address; or

- b) having the same address shown in the Cooperative records. If a member has reasonable access to appropriate hardware and software, then under such terms and conditions as the Board, acting under policies of general application determines, and as allowed by law, the member consents and agrees to
- (1) use, accept, send, receive, and transmit an electronic signature, contract, record, notice, vote, communication, comment, and other document regarding an action, transaction, business, meeting, or activity with, for, or involving the Cooperative;
  - (2) electronically conduct an action, transaction, business, meeting, or activity with, for, or involving the Cooperative; and
  - (3) electronically give or confirm this consent and agreement.

## **ARTICLE XII**

### **Amendments**

These bylaws may be altered, amended, or repealed by the members at any regular or special meeting by the affirmative vote of a majority of those members voting thereon; provided the notice of such meeting shall specify the nature of the proposed alterations, amendment, or repeal or an accurate summary and explanation thereof. Any amendment which is germane to the proposed alterations or amendment specified in the notice and submitted at such meeting may be acted upon at said meeting with the same force and effect as though it had been contained in the notice of the meeting. The Board may sponsor or propose bylaw amendments. Members may sponsor or propose bylaw amendments provided the proposed member bylaw amendment is accompanied by a detailed petition filed with the Cooperative containing the printed names and signatures, address and date signed of at least two percent (2%) of members at least sixty (60) days prior to the membership meeting. The Board of Directors shall be authorized to adopt a general form of petition, and specific policies or rules relating to the information that must be contained in the petition, the procedures for verification of the petition, as well as such other rules or procedures as may appear necessary or appropriate for the proper administration of the amendment process.

The effective date of all altered or amended, repealed, or new bylaws approved by the members shall have an effective date established by the Board but not later than the next annual meeting.